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Letter dated 27 December 2001 from the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism addressed to the President of the Security Council

The Counter-Terrorism Committee has received the attached report from Kazakhstan, submitted pursuant to paragraph 6 of resolution 1373 (2001) (see annex).

I should be grateful if you would arrange for the present letter and its annex to be circulated as a document of the Security Council.

(*Signed*) Jeremy **Greenstock**
Chairman
Counter-Terrorism Committee

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Annex

[Original: English]

Letter dated 26 December 2001 from the Permanent Representative of Kazakhstan to the United Nations addressed to the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism

On instructions from my Government, I hereby have the honour of enclosing a report from Kazakhstan to the Counter-Terrorism Committee pursuant to paragraph 6 of Security Council resolution 1373 (2001) (see enclosure).

I should be grateful if you would have the text of the present letter and the enclosed report circulated as a document of the Security Council.

(*Signed*) Madina B. **Jarbussynova**

Enclosure

[Original: Russian]

Report to the Counter-Terrorism Committee pursuant to Security Council resolution 1373 (2001) of 28 September 2001

Republic of Kazakhstan

The Republic of Kazakhstan reaffirms its resolve to actively combat terrorism in all its manifestations and reiterates its readiness to use all the powers and means at its disposal to support the international community's counter-terrorism measures.

The relevant instructions have been issued to competent State bodies by the country's leadership. A meeting of the Security Council of the Republic of Kazakhstan on counter-terrorism — presided over by the Head of State — was convened to address the domestic and external situation, including measures to combat international terrorism. Decisions were adopted on supplementary measures to strengthen national borders, tighten customs controls, identify extremist and unlawful groupings, prevent illegal migration and strengthen law and order.

An interdepartmental meeting was held on the question of freezing the financial assets of terrorists and terrorist organizations. In follow-up to the meeting, the tracing of accounts and funds possibly belonging to international terrorists and their sponsors has commenced. This work also makes use of information supplied by States that are partners of the Republic of Kazakhstan in the counter-terrorism coalition.

National legal basis for counter-terrorism efforts

The adoption of effective measures to combat and outlaw terrorism is a priority both of domestic and of foreign policy. The existing normative and legal basis for combating this phenomenon has facilitated the development of a strategy which incorporates ideological, information-based and institutional measures to combat terrorism and prevent and suppress terrorist activities in the Republic of Kazakhstan.

The Act "On measures to combat terrorism" has been in force in the Republic since July 1999. A Presidential Decree on measures to counteract terrorism and extremism was issued in February 2000; in November 2000, a State programme for combating terrorism and other forms of extremism and separatism in the Republic of Kazakhstan (2000-2003) was approved. With the adoption of a national security strategy for the Republic of Kazakhstan (1999-2005), the conceptual framework for maintaining national security — as laid out in the Strategy for the Development of Kazakhstan through 2030 — was given concrete expression.

Decree No. 1644 of the Government of the Republic of Kazakhstan on measures for implementing United Nations Security Council resolution 1373 of 28 September 2001 was adopted on 15 December 2001, instructing ministries and government departments to take the necessary measures to counteract and outlaw terrorism.

Among the bills scheduled for consideration by the Government in 2002 are: a bill on accession by the Republic of Kazakhstan to the Convention on Laundering,

Search, Seizure and Confiscation of the Proceeds from Crime; and a bill on combating the legalization (laundering) of proceeds from crime.

It can be seen from article 10 of the Act "On measures to combat terrorism" that the advocacy of terrorism and the establishment, registration or operation of terrorist organizations and unlawful militarized groupings are prohibited in the territory of the Republic of Kazakhstan.

In accordance with article 7 of the same Act, the State bodies engaged in counter-terrorism efforts (National Security Committee, Ministry of Internal Affairs, Presidential Security Service and Ministry of Defence of the Republic of Kazakhstan) are responsible for forestalling and suppressing terrorist activities, including: the recruitment, arming or deployment of terrorists for terrorist acts, as well as their training in terrorist methods.

The Criminal Code establishes the list of offences to be considered as terrorist offences, which carry sanctions ranging from four to fifteen years' imprisonment, including in the following articles:

Article 162: Recruitment, training, funding or other material support of a mercenary;

Article 163: Attack on a person or organization enjoying international protection;

Article 167: Endangering the life of a government or public figure;

Article 233: Terrorism;

Article 234: Hostage-taking;

Article 238: Seizure of buildings, installations, means of transport and means of communication;

Article 251: Unlawful procurement, transfer, sale, storage, transport or carrying of weapons, ammunition, explosive substances and explosive devices.

Provisions have been incorporated in criminal legislation and in agreements concluded by the Republic of Kazakhstan to forestall the use of the territory of the Republic of Kazakhstan by abettors, sponsors and accomplices of terrorist acts directed against other States or their nationals.

Following the adoption of Security Council resolution 1373 (2001) and in accordance with most of the provisions of the Counter-Terrorism Committee's Guidance for the submission of reports, a bill (currently undergoing internal processing) was drafted on amending and supplementing certain legislative acts of the Republic of Kazakhstan on questions of counter-terrorism — including the Act "On measures to combat terrorism" and the Criminal Code — with a view to increasing liability and sanctions for establishing, leading and participating in terrorist organizations.

The international community

Kazakhstan is actively engaged in developing a system for countering terrorism at the regional and international levels. Several bilateral and multilateral agreements have been concluded to that end, including the 2000 Tashkent Agreement between four Central Asian States on joint action to fight terrorism,

political and religious extremism, transnational organized crime and other factors threatening the stability and security of the Parties and the 2001 Convention on Combating Terrorism, Separatism and Extremism between member States of the Shanghai Cooperation Organization. Kazakhstan also contributed to the establishment of the Commonwealth of Independent States (CIS) Anti-Terrorist Centre. A similar mechanism is currently being established in the framework of the Shanghai Cooperation Organization.

The Programme of the States members of CIS to Suppress International Terrorism and Other Manifestations of Extremism to the Year 2000 — and, later, to 2003 — approved by the Council of the CIS Heads of State on 17 May 1996 has become a basis for the development of a repertoire of legislation and concrete joint measures for combating transnational organized crime. On 25 January 2000, the Council adopted a decision on counteracting international terrorism in the light of the results of the Istanbul Summit of the Organization for Security and Cooperation in Europe.

Kazakhstan has concluded bilateral cooperation agreements on combating terrorism and international organized crime with the Federal Republic of Germany, Hungary, Pakistan, China, Uzbekistan, the Russian Federation, Kyrgyzstan, Georgia, Moldova, Ukraine, Lithuania and Turkey. Internal approval has been received for similar agreements with India and Poland.

The Republic of Kazakhstan is cooperating with other States in the prevention, identification and suppression of acts definable as terrorists acts, inter alia by exchanging information, meeting requirements for conducting intelligence investigations and taking steps to combat financing of terrorism and supplying of weapons and ammunition.

Under national legislation and international treaties, the competent bodies in Kazakhstan have evolved a mechanism for exchanging intelligence on counteracting terrorism and extremism with the special services of foreign States. Information on the establishment within the Ministry of Internal Affairs of a unit for counteracting terrorism and religious extremism was transmitted to the CIS Anti-Terrorist Centre and to special units within the Ministries of Internal Affairs of CIS countries, China and Turkey; an exchange has also been established on the issue and joint efforts are being carried out with the National Central Bureau of Interpol in Kazakhstan.

Cooperation is also under way on agreed preventive intelligence and special operations to avert, expose and suppress crimes including terrorist and extremist acts, hostage-taking and use of illegal migration channels as well as to exchange information on members inter alia of terrorist, extremist and separatist organizations, and on persons involved in those organizations; to investigate and detain them; and to cut off their travel routes in CIS territory. *For example, in May 2001, following a tip from the competent bodies in Tajikistan, two Tajik nationals, Mr. S. Rakhimov and Mr. B. Davlatov, were arrested in the South Kazakhstan region of the Republic of Kazakhstan when they attempted to hide in the territory of Kazakhstan after committing a terrorist act in the territory of Tajikistan.*

Participation in international anti-terrorism conventions

The Republic of Kazakhstan is party to 7 of the 12 United Nations anti-terrorism conventions (11 of which are in force, given that the Convention on the Marking of Plastic Explosives for the Purpose of Detection, signed at Montreal on 1 March 1991, has yet to enter into force). One other convention, the Convention on the Physical Protection of Nuclear Material, is in the process of being ratified by the Parliament of the Republic of Kazakhstan.

Considering the importance of broadening international cooperation in the field of counter-terrorism and in accordance with the resolutions of the General Assembly and Security Council and appeals from the Secretary-General of the United Nations and the Government of the United States of America, the Council of Experts of the Republic of Kazakhstan on Cooperation with International Organizations has recommended that the Government should give favourable consideration to the question of speedy accession by Kazakhstan to four United Nations conventions to which it is not party, namely: the **International Convention for the Suppression of Terrorist Bombings** adopted by the General Assembly on 15 December 1997, the **International Convention for the Suppression of the Financing of Terrorism** adopted by the General Assembly on 9 December 1999, the **Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation** signed at Rome on 10 March 1988, the **Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf** signed at Rome on 10 March 1988.

Internal procedures are under way to prepare for accession by Kazakhstan to the **International Convention for the Suppression of the Financing of Terrorism**.

Financial and other preventive measures

Article 1, subparagraph 2, of the Act of the Republic of Kazakhstan "On measures to combat terrorism" contains definitions of terrorist acts, which include the financing of terrorist organizations or terrorists.

In order to protect the national interests of the Republic of Kazakhstan and to comply with international commitments, including under Security Council resolutions 1269 (1999), 1333 (2000), 1368 (2001) and 1373 (2001), and in accordance with paragraph 1 of the guidance for the submission of reports of the United Nations Counter-Terrorism Committee, the National Bank of the Republic of Kazakhstan has taken the necessary measures within its sphere of authority. In particular, the Bank has instructed second-tier banks in the Republic of Kazakhstan:

1. To verify (in accordance with lists submitted by the United States subsequent to the events of 11 September 2001) the existence of data for the past three years on legal and physical entities involved in terrorist activities.

2. To conduct an urgent appraisal in strict confidentiality of relevant requirements and instructions from the Republic's law enforcement agencies that have been submitted in accordance with established procedure and provided for in Kazakh legislation.

3. To adopt internal bank documents regulating operations with clients and partner banks, including the following internal monitoring arrangements and issues:

- Checking on new clients for possible involvement in the funding of terrorist activities prior to the opening of bank accounts, with particular attention to new applications from non-residents of the Republic of Kazakhstan;
- Ensuring that no bank accounts are opened anonymously or on the basis of information not verified with relevant documentation;
- Receiving, in accordance with established procedure, supplementary information on international organizations (their offices and representatives) when they open bank accounts, to ensure that the bank is adequately informed about the structure of the organization, its sources of funding, its banking requirements and the whereabouts of the owners or other entities controlling its activities;
- Defining the basic indicators of suspicious transactions and compiling a list of urgent measures to be taken in such cases, to include conditions for carrying out supplementary checks on important transactions or instructions by clients who have raised the bank's suspicions;
- Tightening control over the activities of bank personnel working in such areas.

4. To submit quarterly information concerning the implementation of all these instructions to the National Bank of the Republic of Kazakhstan.

In accordance with article 50 of the Act "On banks and banking activities in the Republic of Kazakhstan", the relevant law enforcement agencies have requested the second-tier banks to provide information on existing accounts and assets belonging to persons on the list provided by the United States of America.

According to the findings of the Procurator General of the Republic of Kazakhstan, no cases of access by terrorist organizations or persons involved in terrorist activities to the banking system of Kazakhstan or other sources of financing have been identified to date.

In accordance with article 8 of the Criminal Code, aliens or stateless persons who have committed offences outside the frontiers of the Republic of Kazakhstan may be handed over to a foreign State to stand trial or to serve a sentence in accordance with international treaties concluded by the Republic of Kazakhstan. Kazakhstan has on several occasions adopted extradition measures in respect of persons involved in committing terrorist activities in their own countries who are seeking to evade prosecution in the territory of Kazakhstan. *For example, in May 2001, Mr. Z. Ziyavutbitbinov was arrested and handed over to the law enforcement agencies of the Russian Federation for involvement in a terrorist act in Buinakske (Dagestan).*

It must be pointed out that, in accordance with the Act "On measures to combat terrorism", the competent authorities may prohibit aliens or stateless persons who have been involved in terrorist activities from entering Kazakhstan.

The Act "On the national security of the Republic of Kazakhstan" also contains a rule prohibiting entry into the Republic of Kazakhstan by aliens and stateless persons liable to deportation who engage in subversive activities against

the Republic of Kazakhstan or speak out publicly against the sovereignty, territorial integrity, ethnic unity, social cohesion or political stability of the country.

The Decree of the President of the Republic of Kazakhstan on the legal status of foreign nationals in the Republic of Kazakhstan provides for deportation of an alien engaged in activities contrary to the interests of preserving national security or maintaining law and order.

In accordance with the Act "On citizenship of the Republic of Kazakhstan", crimes against humanity or against the sovereignty and independence of Kazakhstan, conviction for terrorist activities or other offences under international law constitute grounds for denying Kazakh citizenship.

In accordance with the instructions on dealing with persons applying for recognition of refugee status and on the procedure for defining refugee status in the Republic of Kazakhstan — approved by order of the Migration and Demography Agency of the Republic of Kazakhstan in 1998 — the procedure for granting refugee status is initiated by a written application from an alien or stateless person containing the relevant request. The procedure for granting refugee status also involves an interview with the applicant and verification of the information submitted by him.

As of 1997, in accordance with article 12 of the Act "On population migration", a person who has committed an offence against peace, a crime against humanity or another premeditated crime may not be recognized as a refugee.

On a quarterly basis, the relevant State bodies of the Republic of Kazakhstan transmit information to the competent national bodies on unlawful movements of aliens, printed and other publications with religious content, weapons and ammunition and cases of smuggling and illegal storage of narcotic substances, as well as on measures taken to respond to those problems.

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The Republic of Kazakhstan reiterates its firm resolve to fulfil its international obligations in matters of counter-terrorism and fully supports United Nations efforts aimed at preventing and suppressing terrorist acts.

At both the national and international levels, Kazakhstan is resolved also to continue pursuing the necessary measures to combat terrorism, including measures to eradicate its causes and to eliminate the risk of it spreading.